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EXAMINER

BLECK, CAROLYN M

ART UNIT	PAPER NUMBER
3626	

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/641,866		BERNASCONI ET AL.	
	Examiner		Art Unit	
	Carolyn M. Bleck		3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 84-102 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 84-102 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 27 March 2006 has been entered.

2. This communication is in response to the RCE filed on 27 March 2006.

Claims 1-83 have been cancelled. Claims 84-102 are newly added.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 86, 91, 93-96, and 100 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(A) Claim 86, line 1, "the display" lacks proper antecedent basis. For purposes of applying prior art, "the display" is interpreted as displaying of instructions.

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(B) Claim 91 recites “wherein each web page associated with a temporary employee lists only the open positions that the temporary employee is qualified to fill and that pass through a filter that filters out open positions for which the absent employee has rejected the temporary employee.” Claim 91, line 3, “the absent employee has rejected” lacks proper antecedent basis. It appears in claim 91 that the absent employee has previously rejected the temporary employee. However, nothing in claim 88 or claim 91 requires the absent employee to reject the temporary employee. It is suggested that Applicant include a system element where the absent employee is given the opportunity to reject a temporary employee.

Further, it appears that the recitation of listing only open positions “that pass through a filter that filters out open positions for which the absent employee has rejected the temporary employee” is a conditional limitation. If the absent employee never rejects the temporary employee, then it is unclear if the open position is passed through the filter. Further, if the temporary employee is never rejected, then the claim can be interpreted as “wherein each web page associated with a temporary employee lists only the open positions that the temporary employee is qualified to fill,” because the step of filtering the open positions never occurs. For purposes of applying prior art, this is how claim 91 has been interpreted.

(C) Claim 93, line 3, “the temporary employees” lacks proper antecedent basis. For purposes of applying prior art, “temporary employees” is interpreted as

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temporary employees. Claim 93, line 6, "the absent employees" lacks proper antecedent basis. For purposes of applying prior art, "absent employees" is interpreted as temporary employees.

Claims 94-96 incorporate the deficiencies of claim 93 through dependency, and are therefore rejected as well.

(D) Claim 100, line 4, "the absent employee" lacks proper antecedent basis. In addition, claim 100 recites rejecting temporary employees "rejected by the absent employee." It appears in claim 100 that the absent employee has previously rejected the temporary employee. However, nothing in claim 97 or claim 100 requires the absent employee to reject the temporary employee. It is suggested that Applicant include a step where the absent employee is given the opportunity to reject a temporary employee.

Further, claim 100 recites "the temporary employee associated with the web page passes through a filter." It is unclear to the Examiner if the temporary employee is passing through a filter or if an identifier of the temporary employee is passing through a filter (i.e., first and last name or identification number of the temporary employee). Appropriate clarification is requested.

For purposes of applying prior art, claim 100 is interpreted as listing on a web page associated with the temporary employee "only open positions that the temporary employee is qualified to fill" and for which the temporary employee associated with the web page passes through a filter.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 84-87 and 93-96 are rejected under 35 U.S.C. 102(e) as being anticipated by Thompson et al. (6,334,133).

(A) As per claim 84, Thompson discloses a system comprising:

(a) a substitute fulfillment database having teacher/worker (reads on “employee) and substitute teacher/ replacement worker (reads on “temporary employee”) information, wherein the substitute fulfillment database is maintained by a central communications and processing server, wherein the central communications is connected to a router with a connection to the Internet and to a web server which manages and stores web pages accessible from the Internet, wherein the server maintains at least two interfaces, most preferably two world wide web interfaces, for access to the substitute fulfillment system via the Internet, wherein an interface or web site is directed towards client organizations, such as school districts, wherein an interface or web site is directed towards workers, and wherein another interface or web site is directed towards

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replacement workers or substitute teachers, wherein a worker is able to contact the communications and processing server via the Internet using a home-based computer (reads on "client computer") through a worker web site which is secure, and then the worker is able to provide information regarding his absence to the server, where the information is updated in the substitute fulfillment database (reads on "a web page being associated with each of the employees" and "at least one web page associated with an employee or temporary employee being made available to a client computer when the employee or temporary employee accesses the database"), and wherein using the information in the database, the server (30) generates a listing of opportunities for replacement workers and makes the listing available through a web site interface (reads on "the database having associations with web pages" and "a web page being associated with each of the temporary employees") (Fig. 1, 3-10, col. 6 lines 3-38, col. 8 lines 15-63, col. 9 lines 1-23, col. 10 lines 21-42, col. 11 lines 16-30, col. 12 lines 1-17 and lines 33-36)

(b) a central server coupled to the database, wherein a worker contacts or registers an absence and any messages or special instructions directed to the substitute with the server using a home-based computer and a secure worker web site via the Internet, wherein the worker also provides instructions to the server and the instructions are then relayed through the server to the substitute teacher who has accepted the assignment (Fig. 1, col. 4 lines 50-53, col. 8 lines 15-63, col. 9 lines 1-22, col. 10 lines 8-20, col. 11 lines 16-30).

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It is noted that Thompson's disclosure of web sites is considered to be a form of web page.

(B) As per claim 85, Thompson discloses relaying instructions to a substitute teacher (col. 10 lines 8-20), wherein the instructions include special instructions for a substitute or messages from a teacher to a substitute (col. 8 lines 34-36). Thompson's instructions for a teacher are considered to be a form of a "lesson plan." See page 9 lines 15-18 of Applicant's specification.

(C) As per claim 86, Thompson discloses the communications and processing server relaying instructions to a computer (24) of a substitute, wherein the instructions are associated with the substitute teacher who accepts the assignment from the absent worker (Fig. 1, col. 6 lines 24-38, col. 10 lines 8-20 and lines 32-42). Further, Thompson discloses a web site interface for substitute workers. Based on Figure 1 of Thompson, it appears that the communications and processing server is able to relay information (i.e., instructions) to the potential replacement's home computer (see Fig. 1, #28, #24). Thus, the Examiner respectfully submits that Thompson's home based computer for the substitute teacher would then be able to display the instructions if they were relayed to the home based computer. (See Fig. 1, col. 6 lines 24-38, col. 10 lines 8-20 and lines 32-42).

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(D) As per claim 87, Thompson discloses the substitute worker being a substitute teacher (col. 8 lines 14-63).

(E) Method claims 93-96 repeat the subject matter of system claims 84-87, respectively, as a series of steps rather than as a set of system elements. As the underlying system elements of claims 84-87 have been shown to be fully disclosed by the teachings of Thompson in the above rejections of claims 84-87, it is readily apparent that the system disclosed by Thompson includes the system elements to perform these method steps. As such, these limitations are rejected for the same reasons given above for system claims 84-87, and incorporated herein.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 88-92, 97-100, and 102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al. (6,334,133) in view of Mitsuoka et al. (6,466,914).

(A) As per claim 88, Thompson discloses a system comprising:

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(a) a substitute fulfillment database having staff data records which include information about certifications of the teacher, schedule information of the teacher, and work duties of the teacher (reads on “an employee database having information about qualifications of a plurality employees”) (Fig. 3, col. 8 lines 15-63), which include information on certifications of substitute teachers (reads on “qualifications of a plurality of temporary employees”) (Fig. 3, col. 8 lines 15-63), wherein using the information in the database, a server (30) generates a listing of opportunities for replacement workers and makes the listing available through a web site interface (col. 10 lines 32-42) (reads on “the database having associations with web pages” and “a web page is associated with each of the temporary employees”), wherein the server maintains at least two interfaces, most preferably two world wide web interfaces, for access to the substitute fulfillment system via the Internet, wherein an interface or web site is directed towards client organizations, such as school districts, wherein an interface or web site is directed towards workers, and wherein another interface is directed towards replacement workers or substitute teachers, wherein a substitute teacher is able to use a web site interface and home based computer to access and select listings of opportunities for substitute teachers (Fig. 1, 3-10, col. 6 lines 3-38, col. 8 lines 15-63, col. 9 lines 1-23, col. 10 lines 21-42, col. 11 lines 16-30, col. 12 lines 1-17 and lines 33-36);

(b) a substitute fulfillment database having information about a plurality of absent teachers and information about the criteria for being an appropriate substitute teacher for the absent teacher (Fig. 3, col. 8 lines 15-63) (reads on “a

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position database having information about a plurality of positions and qualifications for positions”);

(c) a server (Fig. 1) configured for:

(i) providing and updating the substitute fulfillment database with information about a teacher’s preferred substitute teachers using an applet, which collects the information, wherein the applet is transmitted to the communications and processing server (reads on “preference message”), wherein the preferred substitute teachers would substitute for a particular teacher when the teacher is absent (reads on “open position”) (col. 7 line 19 to col. 8 line 63) (reads on “updating information about an open position in response to a preference message requesting that a specific open position be offered to at least one preferred temporary employee); and

(ii) storing in a data record a list of preferred substitutes (Fig. 3, col. 8 lines 15-63), wherein the substitute fulfillment system locates the list to replace an absent worker, wherein the substitute fulfillment system then contacts the replacements who are on the list (col. 9 line 42 to col. 10 line 7) (reads on “notifying each preferred temporary employee”).

Thompson fails to expressly disclose a web page being made available to client computers via “web browser programs,” notifying each preferred temporary employee “who meets the qualifications of the specific open position” and “posting information about the specific open position to the web pages associated with each preferred temporary employee and the specific open position being specially marked.”

Mitsuoka discloses the job-provider client and the contractor client using a WWW-browser (col. 6 lines 51-62). Mitsuoka discloses sending a job offer notification to only those contractors (reads on "temporary employee") that have at least a certain aptitude value (reads on "qualifications of the specific open position") necessary for the job (col. 11 lines 21-27).

As per the recitation of "posting information about the specific open position to the web pages associated with each preferred temporary employee and the specific open position being specially marked," Mitsuoka discloses a broker site accessed over the world wide web or internet, wherein when the contractor client has received a job offer notification, the contractor can access the broker site with the contractor client to check an offered job description on-screen and decide whether to apply for the job or not (reads on "posting information about the specific open position to the web pages associated with each preferred temporary employee") (Fig. 6, col. 1 lines 25-28, 39-46, col. 6 line 27 to col. 7 line 9, col. 7 line 65 to col. 8 line 5, col. 8 line 64 to col. 9 line 12). As per the recitation of "the specific open position being specially marked," the Examiner considers the job offer notification in Figure 6 to be a form of specially marking the specific open position. As per the recitation of "preferred temporary employees," Mitsuoka discloses that the job offer notification is made based on the schedules of the contractors and is only offered to those contractors whose schedules are free (col. 10 lines 2-50). Further, Mitsuoka discloses that the job offer notification is made based on the aptitude values of respective contractors, wherein the aptitude value is determined based on the results of jobs that have

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been contracted before, wherein a job provider evaluates the contractor's work as part of the aptitude value, wherein the job provider assigns a desired aptitude value for a contractor than then the job offer notification is sent out only to contractors who have at least the aptitude necessary for the job (col. 10 line 52 to col. 11 line 35, col. 11 lines 51-58, col. 13 lines 31-47, col. 14 lines 53-60). It is further noted that Mitsuoka discloses notifying contractors of jobs through email using the broker (Fig. 1, col. 6 line 27 to col. 7 line 9). As per the recitation of "web pages associated with each preferred temporary employee," the Examiner respectfully submits that accessing the broker site by the contractor to view job offer notifications that are specific to the contractor based on the contractor's schedule or aptitude is considered to be a form of "web pages associated with each preferred temporary employee."

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Mitsuoka within the system of Thompson with the motivation of notifying only those contractors that are available or have the required aptitude thus reducing the amount of data that is transmitted (Mitsuoka; col. 10 lines 42-50 and col. 11 lines 41-50).

(B) As per claim 89, Thompson discloses the server generating a listing of opportunities for replacement workers and making the listing available through a web site interface which is accessible to replacement workers, wherein the workers can select an assignment (col. 10 lines 32-42) (reads on "wherein each

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web page associated with a temporary employee lists each open position that the temporary employee is able to accept”).

(C) As per claims 90-91, Thompson discloses the server generating a listing of opportunities for replacement workers and making the listing available through a web site interface which is accessible to replacement workers, wherein the workers can select an assignment (col. 10 lines 32-42). Thompson fails to expressly disclose listing only the open positions that the temporary employee is qualified to fill. Mitsuoka discloses the contractor accessing a broker site over the Internet or WWW, where the contractor access job offer notifications that transmitted to the contractor based on the contractor's schedule and based on the contractor's aptitude (Fig. 6, col. 1 lines 25-28, 39-46, col. 6 line 27 to col. 7 line 9, col. 7 line 65 to col. 8 line 5, col. 8 line 64 to col. 9 line 12, (col. 10 lines 2-50, col. 10 line 52 to col. 11 line 35, col. 11 lines 51-58, col. 13 lines 31-47, col. 14 lines 53-60). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Mitsuoka within the system of Thompson with the motivation of notifying only those contractors that are available or have the required aptitude thus reducing the amount of data that is transmitted (Mitsuoka; col. 10 lines 42-50 and col. 11 lines 41-50).

As per the recitation of “pass[ing] through a filter that filters out open positions for which the absent employee has rejected the temporary employee,” the Examiner respectfully submits that Mitsuoka's disclosure of a broker program receiving job offers from job offer providers, referring to the aptitude values and

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the desired conditions of the contractors stored in the contractor database, retrieving the contractors fulfilling certain conditions (reads on “a filter that filters out open positions”), and then transmits job offer notifications only to those employees that meet the conditions, wherein the aptitude values are based on evaluation of the contractor’s work by the job provider (Fig. 21, col. 10 line 52 to col. 11 line 40, col. 13 lines 41-55, col. 14 lines 1-60) is a form of this feature. Also, note the interpretations of the prior art discussed above under the 35 U.S.C. § 112 rejections.

(D) As per claim 92, Thompson discloses the substitute worker being a substitute teacher (col. 8 lines 14-63).

(E) Method claims 97-100 and 102 repeat the subject matter of system claims 88-92, respectively, as a series of steps rather than as a set of system elements. As the underlying system elements of claims 88-92 have been shown to be fully disclosed by the collective teachings of Thompson and Mitsuoka in the above rejections of claims 88-92, it is readily apparent that the system disclosed collectively by Thompson and Mitsuoka includes the system elements to perform these method steps. As such, these limitations are rejected for the same reasons given above for system claims 88-92, and incorporated herein.

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9. Claim 101 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al. (6,334,133) in view of Mitsuoka et al. (6,466,914) as applied to claim 97, and further in view of Thomas et al. (6,301,574).

(A) As per claim 101, Thompson discloses storing a personal identification number in a data record for both the substitute teacher/replacement worker and the teacher/absent worker (col. 8 lines 24-26). As discussed above, Thompson also discloses a web site interface for substitute teachers (col. 6 lines 24-38 and col. 10 lines 32-42). Further, Thompson discloses allowing a replacement work to access a web site interface to view listings of opportunities for the replacement workers, wherein a web site is preferably secure (col. 9 lines 9-13, col. 10 lines 32-42). However, Thompson and Mitsuoka do not expressly disclose receiving at least one pass code and verifying the received at least one pass code.

Thomas discloses a contractor logging onto a database to access web pages, wherein the contractor is required to enter a password to access the database (Fig. 1, 2A, 2B, 3, col. 3 line 61 to col. 4 line 39, col. 5 lines 7-20, col. 5 line 29 to col. 6 line 8). It is respectfully submitted that if access is provided to the database, the contractor must have entered the correct password, which is a form of verifying the password.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Thomas within the method taught collectively by Thompson and Mitsuoka with the motivation of providing a

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secure means to access user information on a web site (Thompson; col. 9 lines 9-13), thus insuring the confidentiality of user information.

Response to Arguments

10. Applicant's arguments with respect to claims 84-102 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn Bleck whose telephone number is (571) 272-6767. The Examiner can normally be reached on Monday-Thursday, 8:00am – 5:30pm, and from 8:30am – 5:00pm on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached at (571) 272-6776.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


12. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(571) 273-8300	[Official communications]
(571) 273-8300	[After Final communications labeled "Box AF"]
(571) 273-6767	[Informal/ Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand-delivered responses should be brought to the Knox Building, Alexandria, VA.


Carolyn M. Bleck
Patent Examiner
Art Unit 3626